

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

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UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
ELIZABETH MONAS,)
)
Defendant.)

Case No. CR405-333

REPORT AND RECOMMENDATION

Defendant Elizabeth Monas has filed a motion seeking the dismissal of the indictment against her based upon an alleged violation of the Speedy Trial Act and the Sixth Amendment.

There is no merit to defendant's Sixth Amendment claim. Only four months have elapsed since defendant's first appearance before the Court. This Court is aware of no case that has found a violation of the Sixth Amendment's speedy trial right on the basis of such a limited delay. Nor has the defendant demonstrated any prejudice resulting from this brief delay. The defendant's Sixth Amendment claim is without foundation.

Nor has defendant shown a violation of the Speedy Trial Act, 18 U.S.C. § 3161 et seq. That Act provides that a defendant must be brought to trial within seventy days after the filing of the indictment or defendant's first appearance before the Court, whichever is later. 18 U.S.C. § 3161(c)(1); United States v. Davenport, 935 F.2d 1223, 1227 (11th Cir.

1991). Certain periods, however, are excluded from the seventy-day limit. Specifically, the rule provides that any “delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition such motion” is excluded in computing time within which a trial must commence. 18 U.S.C. § 3161(h)(1)(F). A pretrial motion relating to one defendant tolls the speedy trial clock for all co-defendants. United States v. Twitty, 107 F.3d 1482, 1488 (11th Cir. 1997); 18 U.S.C. § 3161(h)(7).

The government is correct in stating that only some twenty-five of the permitted seventy days have elapsed in this case. Accordingly, defendant’s motion to dismiss should be DENIED.

SO REPORTED AND RECOMMENDED this 12th day of April, 2006.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA